

NEPA Categorical Exclusions Implementing Agreement

**Implementing Agreement
between
The Washington State Department of Transportation
and
The Washington State Department of Ecology
Concerning Adoption of NEPA Documented Categorical Exclusions**

I Authority

This implementing agreement is being adopted pursuant to the Memorandum of Understanding between the Department of Ecology (Ecology) and the Department of Transportation (WSDOT) dated August 4, 1988.

State-level environmental review of projects is required by the State Environmental Policy Act (SEPA). Environmental review of WSDOT projects under the National Environmental Policy Act (NEPA) is required when a project includes federal funding or involves a federal action. SEPA adoption of NEPA documents is allowed under WAC 197-11-610 which states that an agency may adopt any environmental analysis prepared under NEPA by following WAC 197-11-600 and 197-11-630.

NEPA Documented Categorical Exclusions are authorized by the Federal Highway Administration's NEPA implementing regulation, 23 CFR §771.117.

II Background & Summary

WSDOT has requested that Ecology concur with adoption of NEPA documented categorical exclusions (DCE) as the SEPA Environmental Checklist for SEPA Determination of Nonsignificance (DNS) threshold decisions. Ecology has agreed to concur with adoption of WSDOT's existing DCE documentation form (Environmental Classification Summary - ECS) as the SEPA checklist, provided that WSDOT include in the adoption packages those elements of the SEPA Environmental Checklist-Section A. *Background*, not included in the ECS form. The adoption process will include a 15-day public/agency comment period.

The key criterion for adoption is that the adopting or lead agency (i.e., WSDOT) must independently review the content of the document and determine that it meets the adopting agency's review standards and needs. The information being adopted must be of sufficient detail and scope to allow the public and reviewing entities to comment in a reasonable fashion, i.e., in the case of a DCE substituting for a checklist, comparable information to a checklist must be contained in the document.

In the spirit of regulatory reform, both agencies agree to meet the following requirements to allow for adoption of existing DCE forms with the additional information noted herein. This agreement will benefit both agencies by reducing paperwork and permit processing time, and eliminating repetitive information preparation and review.

NOTE: Many WSDOT projects are funded using Title 23 transportation funding as provided by the USDOT through either FHWA or FTA (EPM Revision, March 2003).

III. Agreement

Department of Ecology (Ecology):

- 1 Ecology concurs that the adoption of a NEPA documented categorical exclusion (DCE) under the Federal Highway Administration's NEPA implementing regulation, 23 CFR §771.117, is allowable under the State Environmental Policy Act (SEPA). Rules in lieu of completing a SEPA checklist, provided the requirements of WAC 197-11-610 and 197-11-630 are met.
- 2 Ecology will prepare a notice for the SEPA Register notifying other agencies and the public of Ecology's interpretation that an adoption of a NEPA documented categorical exclusion is allowable under the SEPA Rules.
3. Ecology will review and may provide comments, if appropriate, during the 15-day public/agency comment period for each proposed project for which adoption of a DCE is planned to comply with SEPA

Department of Transportation (WSDOT):

1. As lead agency, WSDOT will review the content of adoption packages and determine that they meet the adopting agency review standards, as per WAC 197-11-630, prior to submitting the package.
 - 2 WSDOT will submit an adoption package for Ecology's review concurrently with initiation of public notice. The package will consist of:
 - a. A completed Environmental Classification Summary form;
 - b. *A Determination of Nonsignificance and Adoption of Existing Environmental Document*, essentially in the format of Ecology form ECY 050-46(b); and
 - c. The following items required in a SEPA checklist, but not contained in the ECS form, will be included as an attachment to the package, or otherwise provided within the documentation:
 - i. Proposed timing of project (including phasing if applicable).
 - ii. List future additions, expansions, or further activity related to project.
 - iii. List any environmental information that has been prepared, or will be prepared, that relates to this proposal.
 - iv. Give complete project description, and location information, including zoning classification of site.
 - v. Earth: give approximate slope of site, soil type, source of fill material, percent of increased impervious surfaces, erosion potential, and measures to reduce erosion.
 - vi. Water: List and describe any impacts to lakes or other surface waters not included in the ECS form. List any proposed surface or ground water withdrawals, diversions or discharges.
 3. WSDOT's adoption process will include a 15-day public/agency comment period, including publication of a public notice of the adoption and DNS in a newspaper serving the project area. A copy of the adoption package will be sent to all permitting agencies.
 4. WSDOT will consider revision of the Environmental Classification Summary form to include the additional information required for this adoption process.
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IV. Duration of Implementing Agreement

This Implementation Agreement will remain in effect until terminated. Either party may terminate this Agreement upon 30-day written notice to the other. Written notice of termination shall include the reason[s] for termination.

V. Revisions to Implementing Agreement

Revisions to this Implementing Agreement may be initiated by either party and will become final after both parties are in agreement and appropriate signatures are attached.

VI. Execution

The undersigned hereby agree that WSDOT and Ecology will complete the above listed requirements when proposing adoption of, or reviewing for adoption, a NEPA documented categorical exclusion as the SEPA checklist.

Jerry Alb, Director
Environmental Services
Department of Transportation

David Bradley, Supervisor
Environmental Review & Sediments
Department of Ecology

(Signed Original) _____

(Signed Original) _____

Date: (Dated 6/20/96) _____

Date: (Dated 6/14/96) _____

NOTE: The public/agency comment period was changed to 14 days in the April 1998 revision to the WAC (EPM Revision, March 2003).